

FEDERAL DEFENDER SERVICES OF
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August 25, 2009

Hon. Patricia J. Gorence
United States District Court Magistrate Judge
United States Courthouse, Rm. 264
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

RE: *United States v. Terry J. Powell*
District Court case numbers 07-CR-227 and WE40 H5038890

Dear Magistrate Judge Gorence:

The defendant's wife indicates to me that due to continued processing of a toxicology report concerning the death of Terry Powell, a death certificate from the Milwaukee County Medical Examiner's Office is not anticipated for another two months. I trust the attached "Demographic Report" from the Milwaukee County Medical Examiner's Office which verifies Mr. Powell's death will be enough to cause the government to move to dismiss the above-referenced matters. Case number 07-CR-227 is scheduled for final pretrial on September 15, 2009 and for jury trial on September 30, 2009. Case no. WE40 H5038890 is scheduled for trial on October 19, 2009.

The death of the defendant abates the proceedings had in the prosecutions from their inception. *United States v. Moehlenkamp*, 557 F.2d 126 (7th Cir. 1977).

I re-state my request that the government return to me each of Mr. Powell's lawful possession, seized from his home during the execution of a search warrant there on August 10, 2007, so that I may forward those items to his wife for her safekeeping and handling.

Hon. Patricia J. Gorence

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Sincerely,

/s/ Thomas G. Wilmouth

Thomas G. Wilmouth

cc: Assistant United States Attorney Melvin K. Washington (ECF notification)
Assistant United States Attorney Jonathan H. Koenig (by e-mail; w/ encl.)
Kathy Fink (by e-mail; w/ encl.)
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